

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOSE L. GALLARDO,

Plaintiff,

vs.

STATE OF NEBRASKA, et al.,

Defendant.

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4:06cv3091

MEMORANDUM AND ORDER

This matter is before the court on receipt of three documents which the plaintiff has attempted to file pro se, i.e., a "Motion to File Out of Time," "Motion Opposing Buchmeier, Curtis, and Coon Dismissal," and "Plaintiff Affidavit in Answer and Opposing Buchmeier, Curtis, and Coon Dismissal from this Case." The documents have not been filed.

Fed. R. Civ. P. 11(a) states in pertinent part: "Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, **or, if the party is not represented by an attorney, shall be signed by the party.**" (Emphasis added.) Thus, it is clear that Rule 11 contemplates either self-representation or attorney representation, but not both by the same party in the same case.

In this litigation, the plaintiff has retained an attorney who has entered an appearance on the plaintiff's behalf. Therefore, in accordance with Rule 11, the attorney of record must sign all pleadings, motions and papers to be filed with the court for the plaintiff. The signature of the plaintiff's attorney is important because Rule 11 explains that by signing documents filed with the court, the attorney makes certain representations and warranties and risks exposure to sanctions for violations of Rule 11.

Therefore, the court will forward the plaintiff's "Motion to File Out of Time," "Motion Opposing Buchmeier, Curtis, and Coon Dismissal," and "Plaintiff Affidavit in Answer and Opposing Buchmeier, Curtis, and Coon Dismissal from this Case" to Roger I. Roots, the plaintiff's attorney of record. If Mr. Roots wishes to file the documents on the plaintiff's behalf, he shall affix his signature block and add his original signature to the documents. In the alternative, he may file other documents. Mr. Roots is hereby granted twenty (20) days from the date of this Order to file a response for the plaintiff to filing no. 23, the Motion to Dismiss which is the subject of the forwarded documents. Filing no. 23 will be taken under advisement by the court until after the foregoing deadline.

**SO ORDERED.**

DATED this 23<sup>rd</sup> day of October, 2006.

BY THE COURT:

s/ F. A. GOSSETT  
United States Magistrate Judge